

**House File 2438 - Introduced**

HOUSE FILE 2438

BY LUKAN

**A BILL FOR**

1 An Act relating to the rebate of state sales tax to qualified  
2 new Iowa businesses.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 423.2, subsection 11, Code Supplement  
2 2011, is amended to read as follows:

3 11. *a.* All revenues arising under the operation of the  
4 provisions of this section shall be deposited into the general  
5 fund of the state.

6 *b.* Subsequent to the deposit into the general fund of the  
7 state ~~and after the transfer of such~~ pursuant to paragraph "a",  
8 the department shall do the following in the order prescribed:

9 (1) Transfer the revenues collected under chapter 423B, the  
10 department shall transfer.

11 (2) Transfer from the remaining revenues the amounts  
12 required under Article VII, section 10, of the Constitution  
13 of the State of Iowa to the natural resources and outdoor  
14 recreation trust fund created in section 461.31, if applicable.

15 (3) Transfer one-sixth of such the remaining revenues to the  
16 secure an advanced vision for education fund created in section  
17 423F.2. This paragraph subparagraph (3) is repealed December  
18 31, 2029.

19 (4) Beginning the first day of the quarter following July  
20 1, 2012, transfer to the qualified new Iowa business sales  
21 tax rebate fund created under section 423.4, subsection 10,  
22 paragraph "e", that portion of the sales tax receipts collected  
23 and remitted upon sales of tangible personal property or  
24 services furnished by a qualified new Iowa business meeting the  
25 qualifications of section 423.4, subsection 10, that remains  
26 after the transfers required in subparagraphs (1), (2), and (3)  
27 of this paragraph "b".

28 Sec. 2. Section 423.4, Code Supplement 2011, is amended by  
29 adding the following new subsection:

30 NEW SUBSECTION. 10. *a.* For purposes of this subsection:

31 (1) "Change of control" means any change in the ownership  
32 of a qualified new Iowa business such that all the equity  
33 interests in the qualified new Iowa business ceases to be owned  
34 by individuals who are new business owners.

35 (2) "New business" includes any activity engaged in by

1 any person or caused to be engaged in by the person with  
2 the object of gain, benefit, or advantage, either direct or  
3 indirect, which activity was not previously engaged in or  
4 caused to be engaged in by that person before July 1, 2012.  
5 This subparagraph shall not be construed to include activity  
6 performed or caused to be performed by a person acting in the  
7 capacity of an employee, or activity that meets the definition  
8 of "casual sales" in section 423.3.

9 (3) "*New business owner*" means an individual who meets all  
10 the following requirements:

11 (a) The individual acquires an equity interest in a new  
12 business on or after July 1, 2012.

13 (b) The individual has not engaged in or caused to be  
14 engaged in by the individual any activity with the objective  
15 of gain, benefit, or advantage, either direct or indirect,  
16 prior to the date on which the individual acquires the equity  
17 interest in the new business. This subparagraph division shall  
18 not be construed to include activity performed or caused to be  
19 performed by a person acting in the capacity of an employee, or  
20 activity that meets the definition of "casual sales" in section  
21 423.3.

22 (4) "*Qualified new Iowa business*" means a new business  
23 whose equity interests are all owned by new business owners  
24 and whose commercial domicile, as defined in section 422.32,  
25 is in this state, and includes a sole proprietorship, joint  
26 venture, partnership, limited liability company, corporation,  
27 association, or any other business entity operated for profit.

28 *b.* A qualified new Iowa business may apply to the department  
29 for a rebate of sales tax imposed and collected by the  
30 qualified new Iowa business upon sales of any tangible personal  
31 property or services furnished to purchasers by the qualified  
32 new Iowa business.

33 *c.* The rebate may be obtained only in the following amounts  
34 and manner and only under the following conditions:

35 (1) The rebate shall be applied for on forms furnished

1 by the department within the time period provided by the  
2 department by rule, which time period shall not be longer than  
3 quarterly.

4 (2) The qualified new Iowa business shall provide  
5 information as deemed necessary by the department.

6 (3) The transactions for which sales tax was collected  
7 and the rebate is sought occurred on or after the date the  
8 qualified new Iowa business registers with the department and  
9 is certified as a qualified new Iowa business pursuant to  
10 paragraph "d". However, not more than five hundred thousand  
11 dollars in total rebates shall be provided pursuant to this  
12 subsection for each qualified new Iowa business.

13 (4) Notwithstanding subparagraph (3), the rebate of sales  
14 tax shall cease for transactions occurring on or after the date  
15 of the change of control of the qualified new Iowa business.

16 d. To assist the department in determining taxpayers  
17 eligible for the rebate, the owner of a business shall register  
18 with the department as a qualified new Iowa business using the  
19 forms and procedures prescribed by the department. If the  
20 department determines that the business meets the definition of  
21 a qualified new Iowa business, the department shall certify the  
22 business as a qualified new Iowa business.

23 e. There is established within the state treasury under the  
24 control of the department a qualified new Iowa business sales  
25 tax rebate fund consisting of the amount of state sales tax  
26 revenues transferred pursuant to section 423.2, subsection 11,  
27 paragraph "b", subparagraph (4). An account is created within  
28 the fund for each qualified new Iowa business meeting the  
29 qualifications of this subsection. Moneys in the fund shall  
30 only be used to provide rebates of state sales tax pursuant  
31 to this subsection, and only the state sales tax revenues in  
32 the qualified new Iowa business sales tax rebate fund are  
33 subject to rebate under this subsection. Any moneys in the  
34 fund that represent state sales tax revenue for which the time  
35 period in paragraph "c" for receiving a rebate has expired,

1 or that otherwise represent state sales tax revenue that has  
2 become ineligible for rebate pursuant to this subsection, shall  
3 immediately revert to the general fund of the state.

4 *f.* Upon determining that the conditions and requirements  
5 of this subsection and the department are met, the department  
6 shall issue a warrant from the applicable account within the  
7 qualified new Iowa business sales tax rebate fund to the  
8 qualified new Iowa business in the amount claimed and verified  
9 by the department.

10

EXPLANATION

11 This bill authorizes the department of revenue to rebate  
12 sales tax collected by a qualified new Iowa business.  
13 "Qualified new Iowa business" is defined as any new business  
14 owned entirely by new business owners and whose commercial  
15 domicile is located in this state. "New business" includes  
16 any activity engaged in for the first time by a person after  
17 July 1, 2012, with the object of gain, benefit, or advantage,  
18 excluding activities performed as an employee or activities  
19 that meet the definition of "casual sales" in Code section  
20 423.3. "New business owners" are individuals that acquire an  
21 equity interest in a new business and that have not previously  
22 engaged in any activity with the object of gain, benefit, or  
23 advantage, excluding activities performed as an employee or  
24 activities that meet the definition of "casual sales" in Code  
25 section 423.3.

26 The rebate of sales tax only applies to the sales tax  
27 collected on transactions occurring on or after the date a  
28 qualified new Iowa business registers with the department of  
29 revenue and is certified as a qualified new Iowa business, and  
30 shall only be paid from the qualified new Iowa business sales  
31 tax rebate fund created in the bill.

32 The bill creates the qualified new Iowa business sales tax  
33 rebate fund consisting of the remaining amount of state sales  
34 tax revenue collected upon sales of tangible personal property  
35 or services furnished by a qualified new Iowa business after

1 subtracting the local option sales tax under Code chapter  
2 423B, the natural resources and outdoor recreation trust  
3 fund transfer pursuant to Article VII, section 10, of the  
4 Constitution of the State of Iowa if applicable, and the secure  
5 an advanced vision for education fund transfer pursuant to Code  
6 section 423F.2. Rebates are paid only from this rebate fund  
7 and are limited to the amounts in the fund. The total amount  
8 that may be rebated from the fund for each qualified new Iowa  
9 business is \$500,000.

10     The rebate ceases for a qualified new Iowa business if  
11 the business has an ownership change wherein all the equity  
12 interests cease to be owned by new business owners.